

# SENATE BILL No. 220

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-18-15-2; IC 36-4-3; IC 36-9-22-2.

**Synopsis:** Annexation. Provides, with certain exceptions, that when a municipality initiates an annexation, the municipality must file a petition with the court containing the signatures of: (1) at least 75% of the landowners in the territory proposed to be annexed; or (2) the owners of more than 75% in assessed valuation of the land in the annexed territory. Provides that, if the court finds that the petition has a sufficient number of signatures, a hearing will be conducted to review the annexation and fiscal plan. Allows a person to intervene as a party at the hearing to review the annexation and fiscal plan if: (1) the person is an owner of property in the territory; (2) the person, and no other owner of the property have signed the petition filed by the municipality; and (3) the person appeared at the hearing conducted by the municipality on the annexation ordinance or submitted a remonstrance or other document into the record of the hearing. Eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Removes provisions allowing a municipality to obtain waivers of a landowner's right to remonstrate against an annexation. Provides that in all circumstances an annexation becomes effective when the ordinance or judgment is filed by the municipal clerk.

**Effective:** July 1, 2009.

**Gard**

January 7, 2009, read first time and referred to Committee on Local Government.

C  
o  
p  
y



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 220

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-4-3-3.1 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.1. (a) This section  
3       does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),  
4       4(h), or 4.1 of this chapter.

5       (b) A municipality shall develop and adopt a written fiscal plan and  
6       establish a definite policy by resolution of the legislative body that  
7       meets the requirements set forth in section 13 of this chapter.

8       (c) Except as provided in subsection (d), the municipality shall  
9       establish and adopt the written fiscal plan before mailing the  
10      notification to landowners in the territory proposed to be annexed  
11      under section 2.2 of this chapter.

12      (d) In an annexation under section 5, ~~or~~ 5.1, **or 5.5** of this chapter,  
13      the municipality shall establish and adopt the written fiscal plan before  
14      adopting the annexation ordinance.

15      SECTION 2. IC 36-4-3-5.1 IS AMENDED TO READ AS  
16      FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.1. (a) This section  
17      applies to an annexation in which owners of land located outside but



C  
o  
p  
y

contiguous to a municipality file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

**C  
o  
p  
y**



(i) ~~A remonstrance under section 11 of this chapter may not be filed.~~  
 However, an appeal under section 15.5 of this chapter may be filed.

(j) (i) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

SECTION 3. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5, 5.1, or 7.1 of this chapter.**

**(b) After a municipality adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (c), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:**

**(1) at least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed; or**

**(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.**

**(c) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:**

**"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."**

**(d) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality. A person who withdraws the person's signature from the petition is considered not to have signed the petition for purposes of subsection (g)(2).**

**(e) The municipality must file the petition with the circuit or superior court of the county where the municipality is located not later than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by:**

**(1) a copy of the ordinance; and**

**(2) the names and addresses of all persons who meet the requirements of subsection (g).**

**(f) On receipt of the petition, the court shall determine whether the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and**

**C  
o  
p  
y**



whether signers of the petition are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section. If the court determines that the municipality's petition is sufficient, the court shall fix a time, not later than sixty (60) days after its determination, for a hearing on the petition.

(g) A person may intervene as a party if:

- (1) the person is an owner of property in the area proposed to be annexed;
- (2) the person and no other owner of the property have signed the petition filed by the municipality; and
- (3) the person appeared in person or submitted a remonstrance or other document into the record of the hearing under section 2.1 of this chapter.

The court shall give a person who meets the requirements of subdivisions (1) through (3) notice of the hearing on the petition by certified mail.

SECTION 4. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After an **annexation** ordinance is adopted, ~~under section 3, 4, 5, or 5.1 of this chapter,~~ it the **ordinance** must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b) ~~(c), or (f), or (d),~~ in the absence of remonstrance and appeal under section ~~11 or 15.5~~ of this chapter the ordinance takes effect as follows:

- (1) Except as provided in subsection (b) or (d), if the ordinance is adopted under section 5 of this chapter, in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by under section 22(a) of this chapter.
- (2) Except as provided in subsection (b) or (d), if the ordinance is adopted under section 5.1 of this chapter, in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.
- (3) Except as provided in subsection (b) or (d), if the ordinance is adopted under section 5.5 of this chapter, and the court's judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective

C  
o  
p  
y



upon the filing under section 22(a) of this chapter.

(4) Notwithstanding subsection (b), and except as provided in subsection (d), an annexation under section 7.1 of this chapter takes effect upon the expiration of the sixty (60) day appeal period under section 15.5 of this chapter and after the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and a hearing and an appeal under section 12 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property

C  
o  
p  
y



owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d); and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 5. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing and recording required by section 22(a) of this chapter if all of the following conditions are met:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

SECTION 6. IC 36-4-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The circuit or superior court shall:

- (1) on the date fixed under section 11 5.5 of this chapter, hear and determine the remonstrance petition without a jury; and
- (2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 7. IC 36-4-3-13, AS AMENDED BY P.L.111-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) Except as provided in subsections (e) and (g), At the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).
- (b) The requirements of this subsection are met if the evidence

C  
o  
p  
y



1 establishes the following:

2 (1) That the territory sought to be annexed is contiguous to the  
3 municipality.

4 (2) One (1) of the following:

5 (A) The resident population density of the territory sought to  
6 be annexed is at least three (3) persons per acre.

7 (B) Sixty percent (60%) of the territory is subdivided.

8 (C) The territory is zoned for commercial, business, or  
9 industrial uses.

10 (c) The requirements of this subsection are met if the evidence  
11 establishes the following:

12 (1) That the territory sought to be annexed is contiguous to the  
13 municipality as required by section 1.5 of this chapter, except that  
14 at least one-fourth (1/4), instead of one-eighth (1/8), of the  
15 aggregate external boundaries of the territory sought to be  
16 annexed must coincide with the boundaries of the municipality.

17 (2) That the territory sought to be annexed is needed and can be  
18 used by the municipality for its development in the reasonably  
19 near future.

20 (d) The requirements of this subsection are met if the evidence  
21 establishes that the municipality has developed and adopted a written  
22 fiscal plan and has established a definite policy, by resolution of the  
23 legislative body as set forth in section 3.1 of this chapter. The fiscal  
24 plan must show the following:

25 (1) The cost estimates of planned services to be furnished to the  
26 territory to be annexed. The plan must present itemized estimated  
27 costs for each municipal department or agency.

28 (2) The method or methods of financing the planned services. The  
29 plan must explain how specific and detailed expenses will be  
30 funded and must indicate the taxes, grants, and other funding to  
31 be used.

32 (3) The plan for the organization and extension of services. The  
33 plan must detail the specific services that will be provided and the  
34 dates the services will begin.

35 (4) That planned services of a noncapital nature, including police  
36 protection, fire protection, street and road maintenance, and other  
37 noncapital services normally provided within the corporate  
38 boundaries, will be provided to the annexed territory within one  
39 (1) year after the effective date of annexation and that they will be  
40 provided in a manner equivalent in standard and scope to those  
41 noncapital services provided to areas within the corporate  
42 boundaries regardless of similar topography, patterns of land use,

C  
o  
p  
y





and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2):

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection:

(ii) Street and road maintenance:

(B) The annexation will have a significant financial impact on the residents or owners of land:

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f):

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed:

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed:

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed:

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter:

(f) The municipality under subsection (e)(2)(C) bears the burden of

C  
o  
p  
y



proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection;
- (ii) Street and road maintenance;

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

- (i) A majority of the owners of land in the territory proposed to be annexed;
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed;

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed:

(1) (e) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes

C  
o  
p  
y



of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 8. IC 36-4-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the ~~remonstrance, and during the time within which the remonstrance may be taken,~~ **hearing under section 12 of this chapter and appellate review of the court's judgment,** the territory sought to be annexed is not considered a part of the municipality.

SECTION 9. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance. ~~on which the remonstrance is based.~~ The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and
- (2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court; unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences ~~on the remonstrance~~ under section ~~11(c)~~ **12** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred

C  
o  
p  
y



1 twenty (120) days after the publication of the ordinance under  
 2 section 7(a) of this chapter; and

3 (2) before the hearing commences ~~on the remonstrance~~ under  
 4 section ~~11(c)~~ 12 of this chapter.

5 A municipality may not make further attempts to annex the territory or  
 6 any part of the territory during the twenty-four (24) months after the  
 7 date the municipality repeals the annexation ordinance. This subsection  
 8 does not prohibit an annexation of the territory or part of the territory  
 9 that is petitioned for under section 5 or 5.1 of this chapter.

10 (e) This subsection applies if a municipality repeals the annexation  
 11 ordinance:

12 (1) either:

13 (A) at least one hundred twenty-one (121) days after  
 14 publication of the ordinance under section 7(a) of this chapter  
 15 but before the hearing commences ~~on the remonstrance~~ under  
 16 section ~~11(c)~~ 12 of this chapter; or

17 (B) after the hearing commences ~~on the remonstrance~~ as set  
 18 forth in section ~~11(c)~~ 12 of this chapter; and

19 (2) before the date of the judgment of the circuit or superior court  
 20 as set forth in subsection (b).

21 A municipality may not make further attempts to annex the territory or  
 22 any part of the territory during the forty-two (42) months after the date  
 23 the municipality repeals the annexation ordinance. This subsection  
 24 does not prohibit an annexation of the territory or part of the territory  
 25 that is petitioned for under section 5 or 5.1 of this chapter.

26 (f) If a judgment under section 12 or 15.5 of this chapter orders the  
 27 annexation to take place, the annexation is effective when the clerk of  
 28 the municipality complies with the filing requirement of section 22(a)  
 29 of this chapter.

30 SECTION 10. IC 36-4-3-22 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) The clerk of the  
 32 municipality shall do the following:

33 (1) File each annexation ordinance against which ~~a remonstrance~~  
 34 ~~or~~ an appeal has not been filed during the period permitted under  
 35 this chapter or the certified copy of a judgment ordering an  
 36 annexation to take place with each of the following:

37 (A) The county auditor of each county in which the annexed  
 38 territory is located.

39 (B) The circuit court clerk of each county in which the  
 40 annexed territory is located.

41 (C) If a board of registration exists, the registration board of  
 42 each county in which the annexed territory is located.

C  
o  
p  
y



(D) The office of the secretary of state.

(E) The office of census data established by IC 2-5-1.1-12.2.

(2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or an appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 11. IC 36-9-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation

C  
o  
p  
y



1 by the municipality on July 1, 1979.

2 (b) The works board of a municipality may contract with owners of  
3 real property for the construction of sewage works within the  
4 municipality or within four (4) miles outside its corporate boundaries  
5 in order to provide service for the area in which the real property of the  
6 owners is located. The contract must provide, for a period of not to  
7 exceed fifteen (15) years, for the payment to the owners and their  
8 assigns by any owner of real property who:

9 (1) did not contribute to the original cost of the sewage works;  
10 and

11 (2) subsequently taps into, uses, or deposits sewage or storm  
12 waters in the sewage works or any lateral sewers connected to  
13 them;

14 of a fair pro rata share of the cost of the construction of the sewage  
15 works, subject to the rules of the board and notwithstanding any other  
16 law relating to the functions of local governmental entities. However,  
17 the contract does not apply to any owner of real property who is not a  
18 party to it unless it has been recorded in the office of the recorder of the  
19 county in which the real property of the owner is located before the  
20 owner taps into or connects to the sewers and facilities. The board may  
21 provide that the fair pro rata share of the cost of construction includes  
22 interest at a rate not exceeding the amount of interest allowed on  
23 judgments, and the interest shall be computed from the date the sewage  
24 works are approved until the date payment is made to the municipality.

25 (c) The contract must include, as part of the consideration running  
26 to the municipality, the release of the right of the parties to the contract  
27 and their successors in title to remonstrate against pending or future  
28 annexations by the municipality of the area served by the sewage  
29 works. Any person tapping into or connecting to the sewage works  
30 contracted for is considered to waive his rights to remonstrate against  
31 the annexation of the area served by the sewage works.

32 (d) Subsection (c) does not apply to a landowner if all of the  
33 following conditions apply:

34 (1) The landowner is required to connect to the sewage works  
35 because a person other than the landowner has polluted or  
36 contaminated the area.

37 (2) The costs of extension of or connection to the sewage works  
38 are paid by a person other than the landowner or the municipality.

39 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE  
40 JULY 1, 2009]: IC 13-18-15-2; IC 36-4-3-11; IC 36-4-3-11.5;  
41 IC 36-4-3-15.3.

42 SECTION 13. [EFFECTIVE JULY 1, 2009] (a) This act applies to

C  
o  
p  
y



- 1     **an annexation for which an annexation ordinance is adopted after**
- 2     **June 30, 2009.**
- 3         **(b) This SECTION expires July 1, 2012.**

**C  
o  
p  
y**

